IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

Bail Appl..No. 7487 of 2007()

CRIME NO.321/07 OF KOVALAM POLICE STATION, THIRUVANANTHAPURAM

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PETITIONER : ACCUSED:

SURESHKUMAR, S/O.KRISHNANKUTTY,
AGED 37 YEARS, SURESH BHAVAN, T.C.43/1360,
MUTTATHARA VILLAGE, VALLAKADAVU P.O.

BY ADV. SRI.T.RAJASEKHARAN NAIR
SRI.S.MANIKANTAN NAIR

RESPONDENTS: COMPLAINANT:

THE STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7487 of 2007

Dated this the 12th day of December, 2007

ORDER

Application for anticipatory bail. Petitioner faces allegations in a crime registered under Section 409 I.P.C. The petitioner was the person in charge of the stock in a Beer parlour run by the Kerala State Co-operative Consumer Federation. There was a change of the incumbent in charge of the said outlet. Another person had come to take charge. It was found on verification that there was huge deficit of stock. The employer alleges that the petitioner had misappropriated the stock. Beverages of the value exceeding Rs.2.3 lakhs were found to be short in the stock. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is innocent. The petitioner was only a sales helper though he was in charge of the stock. It is only on the complaint of that person, who relieved the petitioner that proceedings have been initiated against him.The said coworker-one Christopher had

not raised any prompt allegations when he took over the stock. Long later, the complaint has been raised. The petitioner may, in these circumstances, be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the huge deficit of stock is a clinching pointer to the culpable misdeeds of the petitioner. In any view of the matter, the petitioner does not deserve to be granted anticipatory bail. He may be directed to surrender before the Investigating Officer or the learned Magistrate and seek regular bail, submits the learned Public Prosecutor .

4. I have perused the case diary. I find merit in the opposition by the learned Public Prosecutor. I am unable to find any features in this case that can justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-